

Town of Lincoln

100 Old River Road, Lincoln RI

Zoning Board of Review

August 7, 2007 Minutes

**Present: Raymond Arsenault, Kristen Rao, Arthur Russo, John Bart,
David Gobeille, Jina Karampetsos,
Town Solicitor Anthony DeSisto**

Excused: Gabriella Halmi

Minutes

- **Motion made by Member Gobeille to accept the July 2007 Minutes as presented. Motion seconded by Member Karampetsos. Motion carried with a 5-0 vote.**

Applications

**JCM, LLC, 3434 Mendon Road, Cumberland, RI – Dimensional
Variance seeking lot width relief for the purpose of subdividing
property located at Jenckes Hill Road, Lincoln, RI.**

AP 26, AP 2 Zoned: RA-40

**Member Arsenault read into the record correspondence dated from
Michael Kelly, Attorney for applicant asking that the application be
continued to the September 2007 meeting. Chairman stated this**

application has been continued since the March 2007 meeting and asked Al Ranaldi, Town Planner what was the status their application before Planning Board. Mr. Ranaldi replied he has not had any contact with applicant and no documents have been filed with his office. Russell Hervieux, Zoning Official stated for the record that he objected to this application being before this Board because applicant has not yet come before the Planning Board. Members of the Board discussed the request stating by continuing the application again it would prevent another resident from submitting their request for a hearing and, if the continuance were denied, the applicant could resubmit an application in the future.

Motion made by Member Rao to deny with prejudice the continuation of the application to the September agenda. Motion to deny seconded by Member Russo. Motion to deny carried with a 5-0 vote.

Motion made by Member Russo to deny without prejudice the application for Dimensional Variance for lack of evidence. Motion seconded by Member Gobeille. Motion carried with a 5-0 vote. Attorney DeSisto to send a letter to applicant informing them their application has been denied without prejudice.

James A. Dupuis, 10 High Street, Manville, RI – Dimensional Variance application seeking rear and side yard relief for the construction of a deck.

AP 37, Lot 266 Zoned: RL 9

Russell Hervieux, Zoning Official addressed the Board stating one notice (Landry, 399 Old River Road, Manville, RI) was returned but address on the envelope matched what was on record in the Tax Assessor's office so sufficient notice was mailed.

Chairman Arsenault read into the record standards that need to be met for a Dimensional Variance.

Applicant wants to build a 10'x20' deck at the rear of the house to gain an exit. House sits on a triangular piece of property making it difficult for location of a new addition. Previous owners installed an existing sunroom. Mr. Hervieux informed the Board that it was not a corner lot and the side yard set does not create a triangular lot. Chairman informed the applicant that the site plan submitted with the application was not to scale making it difficult for the Board to render correct dimensional relief and suggested continuing the application to the October agenda to allow applicant to return with correct lot dimensions. Chairman then read into the record Planning Board recommendation:

Members of the Technical Review Committee visited the site and reviewed the submitted plans and application. The Planning Board recommends Denial of the application for a dimensional variance. The Planning Board feels that the application does not meet the standards for relief of a dimensional variance as presented in the

Zoning Ordinance. More specifically, the Planning Board feels that the site plan and application does not represent the least relief necessary. The Planning Board feels that the applicant has sufficient room to the rear-left of the property to locate a deck without having to request a variance. The Planning Board feels that the dimensional variance will alter the general character of the surrounding area and will impair the intent and purpose of the zoning ordinance and the Comprehensive Plan.

Chairman suggested applicant return with data showing how the deck would conform and fit into the neighborhood; show correct meets and bounds; and possibly meet with Russell Hervieux, Zoning Official for clarification of requirements.

Motion made by Member Gobeille to continue the application to the October agenda. Motion seconded by Member Karampetsos. Motion carried with a 5-0 vote.

John & Laurie Denio, 17 Cabot Street, Lincoln, RI – Dimensional Variance application seeking front and side yard setback for the construction of an addition.

AP 10, Lot 338 Zoned: RL 9

Russell Hervieux, Zoning Official addressed the Board stating one notice (King, 75 Boulevard Avenue, Lincoln, RI) was returned but address on the envelope matched what was on record in the Tax

Assessor's office so sufficient notice was mailed.

Chairman Arsenault read into the record standards that need to be met for a Dimensional Variance.

Applicant wants to construct an addition on property located on a corner lot. Side yard setbacks are not affected. Addition will consist of a bedroom, bathroom and family room. Existing house is 1,040 square feet and there are no lot coverage issues. Construction of the addition will turn the house into an L-shaped ranch with 800 square feet additional living space for the family. Exterior of addition and new roof will match existing house with a spotlight in the driveway for security purposes. Member Russo stated the front stairs are ten feet from the property line and the Board will include a correction to address that issue.

Chairman Arsenault read into the record Planning Board recommendation:

Members of the Technical Review Committee visited the site and reviewed the submitted plans and application. The Planning Board recommends Approval of this application. The Planning Board feels that the proposed design and layout of the existing single family limits the owners to the area in which they can locate an addition. The Planning Board finds that the applicant presents a realistic site layout that meets the intent of the zoning and would not be detrimental to the neighborhood.

Motion made by Member Rao to approve relief of 11.8 feet on the north side; 15 feet on the east side to include the front stairs; and 18.5 feet on the south side for the bulkhead. She further stated:

- The hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not due to the general characteristics of the surrounding area and is not due to a physical or economic disability of the applicant.**
- The hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain.**
- The granting of this variance will not alter the general character of the surrounding area or impair the intent or purpose of the Lincoln Zoning Ordinance or the Lincoln Comprehensive Plan.**
- The relief requested is the least relief necessary.**
- The hardship amounts to more than a mere inconvenience, meaning there is no other reasonable alternative to enjoy a legally permitted beneficial use of the property**

Motion seconded by Member Gobeille. Motion carried with a 5-0 vote.

Benderson Development Co., LLC, 570 Delaware Avenue, Buffalo, NY/640 GWH, LLC, 640 George Washington Highway, Lincoln, RI – Special Use Permit application for mixed use office and hotel on property located at 640 George Washington Highway, Lincoln, RI as authorized under Section 260-9F of the Lincoln Zoning Ordinance.

AP 31, Lot 12 Zoned: ML 0.5

Represented by: Wyatt Brochu, Esquire from the law office of Peter Ruggiero, Esquire

Chairman Arsenault cited standards that need to be met for the three applications.

Attorney Brochu submitted into the record as Exhibit #1 land use report from David W. Schweid. Applicant wants to build a 105 unit Homewood Suites Hotel as allowed under Section 260-9F. Hotel will be utilized by business travelers to the area and they will use an existing parking area from a nearby office complex. Applicant still needs to seek physical alteration permits from DEM and address drainage issues at the preliminary stage.

Witness:

Ben Caito, PE – John P. Caito Engineering

He is the project manager and submitted his resume into the record as Exhibit #2. Chairman noted witness is a registered PE in Connecticut but not Rhode Island and asked Attorney DeSisto to what degree could his testimony could be accepted in Rhode Island. Attorney DeSisto replied that when someone is qualified as an expert they can be allowed to opinion testimony. The fact that this engineer is not certified in Rhode Island holds the weight of his credibility as to whether or not the Board wants to accept his qualifications to render an opinion in the State of Rhode Island.

Chairman Arsenault recommended the application be continued to the September agenda and afford applicant an opportunity to secure proper expert testimony. Attorney Brochu asked that the application be continued without prejudice to the September agenda so he can meet the requirement for the record.

Attorney Desisto recommended that the State of Rhode Island, Department of Transportation be added to the Use Variance application as they are the owners of the property on which the sign is located.

Motion made by Member Gobeille to continue the Special Use application without prejudice to the September 4th agenda. Motion seconded by Member Rao. Motion carried with a 5-0 vote.

Benderson Development Co., LLC, 570 Delaware Avenue, Buffalo, NY/640 GWH, LLC, 640 George Washington Highway, Lincoln, RI – Use Variance application for a sign to be located on Route 116 for a hotel on property located at 640 George Washington Highway, Lincoln, RI.

AP 31, Lot 12 Zoned: ML 0.5

Motion made by Member Karampetos to continue the Use Variance application without prejudice to the September 4th agenda which shall include the State of Rhode Island as an applicant for property on

**which the sign will be located. Motion seconded by Member Rao.
Motion carried with a 5-0 vote.**

**Benderson Development Co., LLC, 570 Delaware Avenue, Buffalo,
NY/640 GWH, LLC, 640 George Washington Highway, Lincoln, RI –
Dimensional Variance application seeking front setback relief for
property located at 640 George Washington Highway, Lincoln, RI.
AP 31, Lot 12 Zoned: ML 0.5**

**Motion made by Member Russo to continue the Dimensional Variance
application without prejudice to the September 4th agenda. Motion
seconded by Member Gobeille. Motion carried with a 5-0 vote.**

**Motion to adjourn made by Member Russo. Motion seconded by
Member Gobeille. Motion to adjourn carried with a 5-0 vote.**

Respectfully submitted,

**Ghislaine Therien
Zoning Secretary**